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1 go -- going forward, he cannot not notify us where
2 he is, because he didn't notify me. That was when I
3 had to try to figure out what was going on with him,
4 because he wasn't being responsive, so I ended up
5 reaching out to his brother. So we talked to him
6 about making sure that going forward, if he was
7 going to be out, that he notify me, and he was --
8 apologized for that and told me he wouldn't do it
9 again.

10 And then we talked about to him about
11 medical retirement so that he could focus on his
12 medical needs, and we talked to him about making
13 sure that he had current FMLA paperwork in. We
14 talked to him about the possibility of annual leave
15 donations. That's what the et cetera is about.

16 Q. That's what the ALD in the next sentence
17 is, annual leave donations, correct?

18 A. Annual leave donations, correct.

19 Q. And so he was facing a five-day suspension
20 because he didn't notify you he was in the hospital?

21 A. He was -- it's not about him being in the
22 hospital. It's about him not notifying us, per
23 policy, and as a professional courtesy, as to his
24 whereabouts. If you don't notify your employer
25 where you are, regardless of the reason, you're

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1 policies are. FMLA does not relieve you of the
2 obligation to notify your employer of your
3 whereabouts.

4 Q. So to avoid that five-day suspension, he
5 had the option of looking at medical retirement?

6 A. No, I did -- the five-day suspension
7 wasn't an option. It wasn't an option or -- it
8 wasn't something I was pursuing, because I was fully
9 aware of his serious medical conditions, and I
10 didn't feel it was appropriate to discipline him at
11 that time because of his medical condition.

12 Q. So it says here, "The opportunity, rather
13 than face discipline, was to look into medical
14 retirement, et cetera, versus facing up to a
15 five-day suspension for your AWOLs."

16 A. Yeah, he could have --

17 MS. ACKERMANN: I'm sorry. Is there a
18 question pending?

19 Q. What did you mean by that?

20 MS. ACKERMANN: If you could refer us to
21 what paragraph you're --

22 MS. BURKE: Exhibit 1, paragraph three,
23 the same sentence we were looking at last time,
24 about five sentences down.

25 MS. ACKERMANN: The one that begins "The

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1 absent without leave.

2 He is an HR person. He's well-aware of
3 our policies. It wasn't because he was in the
4 hospital that he was being punished or coded as
5 AWOL. He was coded as AWOL, and again, I don't know
6 the dates without looking specifically what days he
7 was coded as AWOL.

8 Q. Okay. Do you believe that the Department
9 of Health attendance and notice policy supersedes
10 the Family Medical Leave Act?

11 MS. ACKERMANN: Objection. Foundation.

12 Q. Do you believe that the Department of
13 Health policy requirements came before the
14 requirements of the Family Medical Leave Act?

15 A. I'm -- I don't understand your question.

16 Q. You said that the Department of Health had
17 a notice policy of 30 minutes before a shift,
18 correct?

19 A. Correct. That's -- absence is another
20 leave policy.

21 Q. To your knowledge, that policy stays the
22 same even with intermittent Family Medical Leave
23 Act?

24 A. The requirement to notify your employer
25 is -- it's dependent on the employer and what their

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1 opportunity"?

2 MS. BURKE: Exactly.

3 A. Okay. So what's the question?

4 Q. You say here that his opportunity was
5 rather than to face discipline was to look at
6 medical retirement. If he wasn't facing discipline,
7 why was that his option?

8 A. The opportunity was for him to look at a
9 multitude of things, including his conduct at the
10 time, which was not notifying me, as his supervisor,
11 as to his whereabouts and to correct that. So that
12 was one of many opportunities he had, and rather
13 than face discipline, because I wasn't going to
14 discipline him, because I didn't think it was
15 appropriate. And he didn't get disciplined for
16 those periods -- or however many days he was AWOL.
17 Again, I don't know if he was AWOL, and how many --
18 was it for a full day? Part of a day? Because
19 again, I don't have that information in front of me.

20 So Jeremy had an opportunity to correct
21 the behavior and notify me as a supervisor when he
22 was going to be out from work for whatever reason.
23 He also had the opportunity to apply for annual
24 leave donations, which he did, which I talk about in
25 the next sentence, and I approved that.